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2023/0144 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on temporary trade-liberalisation measures supplementing trade concessions applicable to Moldovan products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Russia's unprovoked and unjustified military aggression against Ukraine under way since 24 February 2022 continues to have a profound negative impact on the Republic of Moldova's ('Moldova') ability to trade with the rest of the world. This is notably because Moldova's exports relied on transit through Ukrainian territory and on Ukrainian infrastructure, which are still largely unavailable. In this difficult situation, Moldova has asked the EU to put in place the conditions to enable the country to redirect to the EU some of its trade with the rest of the world. This would further deepen its trade relations with the EU and support its economy. Possible measures include increasing the degree of market liberalisation through Regulation (EU) 2022/1279 of the European Parliament and of the Council of 18 July 2022 on temporary trade-liberalisation measures supplementing trade concessions applicable to products from Moldova under the Association Agreement between the EU and the Republic of Moldova ('the Association Agreement')¹ establishing a deep and comprehensive free trade area (DCFTA). This Regulation entered into force on 23 July 2022 and will remain in force until 24 July 2023. These measures provide flexibility and certainty for Moldovan producers.

Given Russia's continued military aggression against Ukraine and the ongoing impact on Moldova, and considering that Moldova was granted EU candidate status in June 2022, the Commission is proposing a Regulation of the European Parliament and of the Council that will renew these trade-liberalisation measures for a period of 1 year as of the date the current measures expire (i.e. as of 25 July 2023). The measures should take the form of a temporary suspension of all outstanding tariffs under Title V of the Association Agreement. This concerns fruits and vegetables subject to the entry-price system and to tariff-rate quotas.

Under Annex XV-A of the Association Agreement, seven agricultural products from Moldova are subject to tariff-rate quotas. These are: tomatoes, garlic, table grapes, apples, cherries, plums and grape juice. For all these products, it is appropriate to suspend all tariffs and the entry-price system to temporarily support the redirection of the export of these products to the EU.

These temporary and exceptional measures will ensure that the existing trade flows from Moldova to the EU can continue, which will support Moldova's economy. This is in line with a key objective of the Association Agreement, namely to establish conditions for enhanced economic and trade relations leading towards Moldova's gradual integration in the EU internal market, and contribute to the strengthening of democracy and to political, economic and institutional stability in Moldova.

The trade-liberalisation measures set out in this proposal for a Regulation are in line with Article 2 of the Association Agreement which commits to respecting democratic principles,

¹ The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (OJ L 240, 30.8.2014, p. 4) was signed by the Parties on 27 June 2014. The Association Agreement, including the Deep and Comprehensive Free Trade Area (DCFTA) has been provisionally applied since 1 September 2014 and is fully in force since 1 July 2016 following ratification by all EU Member States.

human rights and fundamental freedoms as well as to countering the proliferation of weapons of mass destruction, related materials and their means of delivery. In addition, under the same Article, the Parties commit in particular to respecting the rule of law and good governance, the fight against corruption, criminal activities, organised or otherwise, including those of transnational character, and terrorism, as well as the principles of sustainable development and effective multilateralism. The trade-liberalisation measures themselves would need, as a prerequisite, to respect these essential elements and general principles.

Furthermore, the trade-liberalisation measures outlined in this proposal aim to ensure, in accordance with Article 207(1) of the Treaty on the Functioning of the European Union (TFEU), that the EU's common commercial policy is conducted in line with the principles and objectives of the EU's external action set out in Article 21 of the Treaty on European Union (TEU).

Expedited safeguard procedures will apply on the basis of regular monitoring allowing for the potential reintroduction of customs duties.

- **Consistency with existing policy provisions in the policy area**

These trade-liberalisation measures are consistent with the Agreement and in particular with Title V establishing a DCFTA, which provides that Parties will progressively establish a free trade area over a transitional period of a maximum of 10 years starting from the entry into force of that Agreement (Article 143 of the Agreement).

In addition, Regulation (EU) 2022/1279 has demonstrated the EU's strong commitment to economically support Moldova by means of international trade in the context of Russian aggression against Ukraine. The renewal of the trade-liberalisation measures would be a logical development of this policy.

Also, Moldova requested in 2022 to activate the review under Article 147 of the Agreement in order to consider accelerating and broadening the scope of the elimination of customs duties between Moldova and the EU. Discussions to this end are currently under way.

- **Consistency with other Union policies**

The EU has strongly condemned the Russian aggression against Ukraine and has taken significant steps to support Moldova in this exceptional situation, including providing additional humanitarian and border support, macro-financial assistance and measures to facilitate trade during this challenging time. In addition, Moldova was granted EU candidate status in June 2022. The proposed Regulation would therefore comply with the EU's obligation under Article 21(3) TEU to ensure consistency between the different areas of its external action, as well as with Article 207(1) TFEU which provides that the common commercial policy is to be conducted in line with the principles and objectives of the EU's external actions.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the proposal is Article 207(2) TFEU.

- **Subsidiarity (for non-exclusive competence)**

The common commercial policy, in accordance with Article 3(1)(e) TFEU, is defined as an exclusive EU competence. Therefore, the subsidiarity principle does not apply.

- **Proportionality**

This proposal is necessary to implement the common commercial policy and to support Moldova economically in its current difficulties, also in the area of trade with the EU.

- **Choice of the instrument**

This proposal is based on Article 207(2) TFEU and falls within the EU's common commercial policy.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

To ensure that the trade-liberalisation measures for Moldova continue after the expiry of Regulation (EU) 2022/1279 on 24 July 2023, it is important that the Regulation enters into force on 25 July 2023. Given this necessity and the resulting urgency of this proposal, no impact assessment was carried out for the measure at hand. However, the trade and trade-related provisions of the Association Agreement have been subject to a sustainability impact assessment commissioned by DG Trade and issued in 2012 which fed into the DCFTA negotiation process. That study confirmed that implementation of trade and trade-related provisions would have a positive economic impact for the EU as well as for Moldova.

In addition, import flows under the Regulation (EU) 2022/1279 are regularly being monitored and reported.

- **Regulatory fitness and simplification**

The measure does not increase regulatory burden for companies.

- **Fundamental rights**

These measures would respect the basic principles enshrined in the Association Agreement. In particular, respect for democratic principles, human rights and fundamental freedoms (Article 2 of the Association Agreement).

The measures would also be in accordance with the European Charter on Fundamental Rights.

4. BUDGETARY IMPLICATIONS

According to an estimate based on Moldova's imports of the products concerned in 2021, which was the last year before autonomous trade measures were introduced, the EU will see a

loss of customs revenue corresponding to around EUR 0.3 million per year. Therefore, the impact on the EU's own resources will be very limited.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Online reporting on the evolution of bilateral EU-Moldova trade is available on dedicated web pages of the European Commission (europa.com).

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

In view of the crisis situation in Moldova as a result of the Russian invasion of Ukraine, the Regulation aims to increase the trade flows for all imports from Moldova by suspending all outstanding tariffs and import duties applied to Moldovan products. The trade-liberalising measures would be granted in the form of full suspension of import duties on all products.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova ('Moldova'), of the other part³ (the 'Association Agreement') constitutes the basis of the relationship between the Union and the Republic of Moldova. In accordance with Council Decision 2014/492/EU⁴, Title V of the Association Agreement, which relates to trade and trade-related matters, has been applied provisionally since 1 September 2014, and entered into force on 1 July 2016 following ratification by all Member States.
- (2) The Association Agreement expresses the desire of the Parties to the Association Agreement (the 'Parties') to strengthen and widen relations in an ambitious and innovative way, to facilitate and achieve gradual economic integration, and to do so in compliance with the rights and obligations arising out of the World Trade Organisation membership of the Parties.
- (3) Article 143 of the Association Agreement provides for the progressive establishment of a free trade area between the Parties in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 ('GATT 1994'). To that end, Article 147 of the Association Agreement provides for the progressive elimination of customs duties in accordance with the Schedules included therein and for the possibility of accelerating and broadening the scope of such elimination.

² Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...

³ OJ L 240 of 30.8.2014, p. 4

⁴ Council Decision 2014/492/EU of 16 June 2014 on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (OJ L 260, 30.8.2014, p. 1).

- (4) Russia's unprovoked and unjustified war of aggression against Ukraine since 24 February 2022 had a profoundly negative impact on the ability of Moldova to trade with the rest of the world, notably because Moldova's exports relied for that trade on transit via Ukrainian territory and on Ukrainian infrastructure, which are still largely unavailable. To mitigate the negative effects on Moldova's economy, it is necessary to accelerate the development of closer economic relations between the Union and the Republic of Moldova and to provide quick support to Moldova's economy under these critical circumstances. It is therefore necessary and appropriate to continue to stimulate trade flows and grant concessions in the form of trade-liberalisation measures for all products, in line with the acceleration of the elimination of customs duties on trade between the Union and Moldova.
- (5) In accordance with Article 21(3) of the Treaty on European Union (TEU), the Union is to ensure consistency between the different areas of its external action. Pursuant to Article 207(1) of the Treaty on the Functioning of the European Union (TFEU), the common commercial policy is to be conducted in the context of the principles and objectives of the Union's external action.
- (6) Regulation (EU) 2022/1279 of the European Parliament and of the Council⁵ will expire on 24 July 2023.
- (7) The trade-liberalisation measures established by this Regulation should take the following form: (i) the suspension of the application of the entry price system to fruit and vegetables; and (ii) the suspension of all tariff-rate quotas and import duties. Through these measures the Union will deepen the economic integration between Moldova and the Union and temporarily provide appropriate economic support to the benefit of Moldova and the economic operators that are affected.
- (8) In order to prevent fraud, the entitlement to the trade measures established by this Regulation should be conditional upon Moldova having complied with all the relevant conditions for obtaining benefits under the Association Agreement, including the rules of origin of products concerned and the procedures related thereto, as well as Moldova's involvement in close administrative cooperation with the Union, as provided for by the Association Agreement.
- (9) Moldova should abstain from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect for imports originating in the Union, from increasing existing levels of duties or charges or from introducing any other restrictions, unless clearly justified in the war context. In the event that Moldova fails to comply with any of those conditions, the Commission should be empowered to suspend temporarily all or part of the trade measures established by this Regulation.
- (10) Article 2 of the Association Agreement provides that, among other things, respect for democratic principles, human rights and fundamental freedoms as well as the countering of the proliferation of weapons of mass destruction, related materials and their means of delivery constitute essential elements of the Association Agreement. Under the same Article, the Parties commit in particular to the following general

⁵ Regulation (EU) 2022/1279 of the European Parliament and of the Council of 18 July 2022 on temporary trade liberalisation measures supplementing trade concessions applicable to products from the Republic of Moldova under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (OJ L 195, 22.7.2022, p. 6)

principles: the respect for the principle of the rule of law and good governance, the fight against corruption, criminal activities, organised or otherwise, including those of transnational character, and terrorism, and the respect for the principles of sustainable development and effective multilateralism. It is appropriate to introduce the possibility of temporarily suspending the trade-liberalisation measures provided for in this Regulation if Moldova fails to respect either the essential elements or the aforementioned general principles of the Association Agreement.

- (11) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to temporarily suspend the trade-liberalisation measures referred to in Article 1 in cases where Union producers of like or directly competing products are adversely affected by imports under this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶.
- (12) Subject to an assessment of three months by the Commission based on regular monitoring of the impact of this Regulation and either following a duly substantiated request from a Member State or on the Commission's own initiative, it is necessary to provide for the possibility to reintroduce the customs duties otherwise applicable under the Association Agreement for imports of any products falling under the scope of this Regulation which are adversely affecting the Union market of like or directly competing products.
- (13) The Commission's annual report on the implementation of the Deep and Comprehensive Free Trade Area, which is an integral part of the Association Agreement, should include a detailed assessment of the implementation of the trade measures established by this Regulation.
- (14) In view of the urgency of the matter related to the situation caused by Russia's war of aggression against Ukraine, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the TFEU and to the Treaty establishing the European Atomic Energy Community,

HAVE ADOPTED THIS REGULATION:

Article 1

Trade-liberalisation measures

The following trade-liberalisation measures are introduced:

- (a) all the tariff-rate quotas established under Annex XV-A to the Association Agreement shall be suspended and the products covered by those quotas shall be admitted for importation into the Union from Moldova without any customs duties;
- (b) the application of the entry price system shall be suspended for those products to which it applies as specified in Annex XV-B to the Association Agreement. No customs duties shall apply to imports of those products.

⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)

Article 2

Conditions for entitlement to the trade-liberalisation measures

The trade-liberalisation measures provided for in Article 1 shall be subject to the following conditions:

- (a) compliance with the rules of origin of products and the procedures related thereto as provided for in the Association Agreement;
- (b) Moldova's abstention from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect for imports originating in the Union, from increasing existing levels of duties or charges or from introducing any other restrictions, including discriminatory internal administrative measures, unless clearly justified in the war context; and
- (c) Moldova's respect for democratic principles, human rights and fundamental freedoms as well as the countering of the proliferation of weapons of mass destruction, related materials and their means of delivery, respect for the principle of the rule of law and good governance, fight against corruption, criminal activities, organised or otherwise, including those of transnational character, and terrorism, and respect for the principles of sustainable development and effective multilateralism provided for in Articles 2, 9 and 16 of the Association Agreement.

Article 3

Temporary suspension of measures

1. Where the Commission finds that there is sufficient evidence of failure by Moldova to comply with the conditions set out in Article 2, it may, by means of an implementing act, suspend in whole or in part the trade-liberalisation measures provided for in this Regulation. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5(2).
2. Where a Member State requests that the Commission suspends any of the trade-liberalisation measures provided for in this Regulation on the basis of a failure to comply with the conditions set out in Article 2, point (b), the Commission shall provide a reasoned opinion within four months of the request on whether the claim of Moldova's failure to comply is substantiated. If the Commission concludes that the claim is substantiated, it shall initiate the procedure referred to in paragraph 1.

Article 4

Expedited safeguard

1. Where a product originating in Moldova is imported under conditions which adversely affect the Union market of like or directly competing products, the Commission may reintroduce the customs duties otherwise applicable under the Association Agreement on imports of that product at any time by adopting an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5(3).
2. The Commission shall regularly monitor the impact of this Regulation, taking into account the information on exports, imports, prices on the Union market and Union production of the products subject to the trade-liberalisation measures under Article 1 (a).

The Commission shall inform the Member States every two months of the results of the regular monitoring, starting from the entry into force of this Regulation.

3. The Commission shall launch an assessment of the situation of the Union market for the like or directly competing products with a view to reintroduce the customs duties. That assessment shall be concluded within a period of no longer than three months:
 - (a) following a duly substantiated request from a Member State including sufficient *prima facie* evidence reasonably available to that Member State pursuant to paragraph 5 of imports adversely affecting the market as referred to in paragraph 1, or
 - (b) on its own initiative, after it has become apparent to the Commission that there is sufficient *prima facie* evidence of imports adversely affecting the market as referred to in paragraph 1.
4. Where, as a result of the assessment, the Commission considers that the Union market of like or directly competing products has been adversely affected and intends to reintroduce the customs duties, it shall publish a notice in the *Official Journal of the European Union* announcing the reintroduction of the customs duties otherwise applicable pursuant to paragraph 1. The notice shall provide a summary of the main results of the assessment and specify the period within which interested parties may submit their views in writing. Such period shall not exceed 10 days from the date of publication of the notice.
5. In its assessment, whether measures should be applied pursuant to paragraph 1, the Commission shall take into consideration all relevant market developments including the impact of the imports concerned on the situation of the Union market of like or directly competing products. That assessment shall include factors such as:
 - (a) the rate and amount of the increase in imports from Moldova of the product concerned in absolute and relative terms; and
 - (b) the effect of the imports concerned on Union production and prices, whilst taking into consideration the development of imports from other sources.

This list is not exhaustive and other relevant factors may also be taken into consideration.

6. The customs duties otherwise applicable under the Association Agreement may be reintroduced for as long as necessary to counteract the adverse effects on the Union market of like or directly competing products.
7. Where exceptional circumstances require immediate action, the Commission may, without following the procedure set out in paragraph 4 and after informing the Committee on Safeguards established by Article 3(1) of Regulation (EU) 2015/478⁷, take any preventive measure, which is necessary.

Article 5

Committee procedure

1. The Commission shall be assisted by the Customs Code Committee established by Article 285(1) of Regulation (EU) No 952/2013 of the European Parliament and of

⁷ Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports ([OJ L 83, 27.3.2015, p. 16](#)).

the Council⁸ with regard to Article 3(1) of this Regulation. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. The Commission shall be assisted by the Committee on Safeguards established by Article 3(1) of Regulation (EU) 2015/478 of the European Parliament and of the Council⁹ with regard to Article 4(1) of this Regulation. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 6

Assessment of the implementation of the trade-liberalisation measures

The Commission's annual report on the implementation of the Deep and Comprehensive Free Trade Area shall include a detailed assessment of the implementation of the trade-liberalisation measures provided for in this Regulation and shall include, insofar as appropriate, an assessment of the social impact of those measures in Moldova and in the Union. Information on the imports of products under Article 1 (a) shall be made available monthly via the website of the Commission.

Article 7

Entry into force and application

This Regulation shall enter into force on [25 July 2023].

This Regulation shall apply until [24 July 2024].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

⁸ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

⁹ Regulation (EU) No 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (OJ L 83, 27.3.2015, p.16)

**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

1. NAME OF THE PROPOSAL:

Proposal for a Regulation of the European Parliament and of the Council on temporary trade-liberalisation measures supplementing trade concessions applicable to Moldovan products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part.

2. BUDGET LINES:

Chapter 12, Article 120

Amount budgeted for the year 2023: 21 590 300 000 €

3. FINANCIAL IMPACT

Proposal has no financial implications

Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

Budget line	Revenue	Period: part of 2023 - part of 2024* (EUR million to one decimal place)
Article 120 Chapter 12 ¹⁰	<i>Impact on own resources</i>	0.3
Total		

* One-year period since entry into force of the regulation

The calculations are based on 2021 import volumes of the products covered by the proposed Regulation in excess of the annual duty-free quota. 2021 was the last year before autonomous trade measures were introduced.

Based on the above calculations the loss of traditional own resources revenue from this Decision is estimated at EUR 0.366 million (gross amount, including collection costs) x 0,75 = EUR 0.274 million for the period in question.

4. ANTI-FRAUD MEASURES

In order to prevent fraud, the entitlement to the trade measures established by the proposed Regulation should be conditional upon Moldova having complied with all the relevant

¹⁰ Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs.

conditions for obtaining benefits under the Association Agreement, including the rules of origin of products concerned and the procedures related thereto, as well as Moldova's involvement in close administrative cooperation with the Union, as provided for by the Association Agreement.